

Comptroller of the Currency, Treasury

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§ 5.1 Scope.

This part establishes rules, policies and procedures of the Office of the Comptroller of the Currency (OCC) for corporate activities and transactions involving national banks. It contains

information on rules of general and specific applicability, where and how to file, and requirements and policies applicable to filings. This part also establishes the corporate filing procedures for Federal branches and agencies of foreign banks.

Subpart A—Rules of General Applicability

§ 5.2 Rules of general applicability.

(a) *General.* The rules in this subpart apply to all sections in this part unless otherwise stated.

(b) *Exceptions.* The OCC may adopt materially different procedures for a particular filing, or class of filings, in exceptional circumstances, such as natural disasters or unusual transactions, after providing notice of the change to the applicant and to any other party that the OCC determines should receive notice.

(c) *Additional information.* The “Comptroller’s Corporate Manual” (Manual) provides additional guidance, including policies, procedures, and sample forms. The Manual is sent to all national banks and is available for a fee by writing to the Comptroller of the Currency, P.O. Box 70004, Chicago, IL 60673-0004.

§ 5.3 Definitions.

(a) *Applicant* means a person or entity that submits a notice or application to the OCC under this part.

(b) *Application* means a submission requesting OCC approval to engage in various corporate activities and transactions.

(c) *Appropriate district office* means:

(1) The OCC’s Multinational Banking Department for all national banks that are subsidiaries of a designated multinational holding company;

(2) The district office for the OCC district where the national bank’s supervisory office is located for all other banks; or

(3) The OCC’s International Banking and Finance Department for Federal branches and agencies.

(d) *Capital and surplus* means:

(1) A bank’s Tier 1 and Tier 2 capital calculated under the OCC’s risk-based capital standards set forth in Appendix A to 12 CFR part 3 as reported in the

bank's Consolidated Report of Condition and Income filed under 12 U.S.C. 161; plus

(2) The balance of a bank's allowance for loan and lease losses not included in the bank's Tier 2 capital, for purposes of the calculation of risk-based capital described in paragraph (d)(1) of this section, as reported in the bank's Consolidated Report of Condition and Income filed under 12 U.S.C. 161.

(e) *Central city* means the city or cities identified as central cities by the Director of the Office of Management and Budget.

(f) *Depository institution* means any bank or savings association.

(g) *Eligible bank* means a national bank that:

(1) Is well capitalized as defined in 12 CFR 6.4(b)(1);

(2) Has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (CAMEL);

(3) Has a Community Reinvestment Act (CRA), 12 U.S.C. 2901 *et seq.*, rating of "Outstanding" or "Satisfactory"; and

(4) Is not subject to a cease and desist order, consent order, formal written agreement, or Prompt Corrective Action directive (see 12 CFR part 6, subpart B) or, if subject to any such order, agreement, or directive, is informed in writing by the OCC that the bank may be treated as an "eligible bank" for purposes of this part.

(h) *Eligible depository institution* means a state bank or a Federal or state savings association that meets the criteria for an "eligible bank" under § 5.3(g) and is FDIC-insured.

(i) *Filing* means an application or notice submitted to the OCC under this part.

(j) *National bank* means any national banking association and any bank or trust company located in the District of Columbia operating under the OCC's supervision.

(k) *Notice* means a submission notifying the OCC that a national bank intends to engage in or has commenced certain corporate activities or transactions.

(l) *Short-distance relocation* means moving the premises of a branch or main office within a:

(1) One thousand foot-radius of the site if the branch is located within a central city of an MSA;

(2) One-mile radius of the site if the branch is not located within a central city, but is located within an MSA; or

(3) Two-mile radius of the site if the branch is not located within an MSA.

§ 5.4 Filing required.

(a) *Filing.* A depository institution shall file an application or notice with the OCC to engage in corporate activities and transactions as described in this part.

(b) *Availability of forms.* Individual sample forms and instructions for filings are available in the Manual and from each district office.

(c) *Other applications accepted.* At the request of the applicant, the OCC may accept an application form or other filing submitted to another Federal agency that covers the proposed action or transaction and contains substantially the same information as required by the OCC. The OCC may also require the applicant to submit supplemental information.

(d) *Where to file.* An applicant should address a filing or other submission under this part to the attention of the Licensing Manager at the appropriate district office. However, the OCC may advise an applicant through a pre-filing communication to send the filing or submission directly to the Bank Organization and Structure Department or elsewhere as otherwise directed by the OCC. Relevant addresses are listed in the Manual.

(e) *Incorporation of other material.* An applicant may incorporate any material contained in any other application or filing filed with the OCC or other Federal agency by reference, provided that the material is attached to the application and is current and responsive to the information requested by the OCC. The filing must clearly indicate that the information is so incorporated and include a cross-reference to the information incorporated.

§ 5.5 Fees.

An applicant shall submit the appropriate filing fee, if any, in connection with its filing. An applicant shall pay